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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/976,346 | 10/12/2001 | Jinwen Zhang | P04706US2 | 2317 |

22885 7590 01/06/2004

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DES MOINES, IA 50309-2721

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| EXAMINER |
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KAM, CHIH MIN

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| ART UNIT | PAPER NUMBER |
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1653

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,346

Applicant(s)

ZHANG ET AL.

Examiner

Chih-Min Kam

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 14-18 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 12, 13 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Status of the Claims

1. Claims 1-18 and 20-23 are pending.

Applicants' amendment filed on October 21, 2003 is acknowledged, and applicant's response has been fully considered. Claim 19 has been cancelled and claims 1, 10 and 12-14 have been amended. Therefore, claims 1-18 and 20-23 are examined.

Rejection Withdrawn

Claim Rejections - Obviousness Type Double Patenting

2. The previous rejection of claims 1-16 and 23 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-12 of copending application No. 09/564,005 (now U. S. Patent 6,632,925) is withdrawn in view of applicants' submitting terminal disclaimer filed October 22, 2003.

Claim Rejections - 35 USC § 112

3. The previous rejection of claims 1-11, 14-19 and 20-22, under 35 U.S.C.112, second paragraph, is withdrawn in view of applicant's cancellation of the claim, applicant's amendment of the claim, and applicant's response at pages 5 and 6 in the amendment filed October 21, 2003.

Claim Rejections - 35 USC § 102

4. The previous rejection of claims 17, 21, and 22 under 35 U.S.C. 102(e) as being anticipated by Tomka (US Patent 6,214, 907) in view of applicant's amendment of the claim, and applicant's response at pages 6 and 7 in the amendment filed October 21, 2003.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 12, 13 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 12 and 13 are indefinite because of the use of the term “0-0.6 parts by weight glutaric dialdehyde” or “0-0.4 parts by weight epichlorohydrin”. The term cited renders the claim indefinite because the claim does not conform the limitation of the dependent claims (claims 9 and 10), which claims 12 and 13 depend from, claims 9 and 10 cite the inclusion of a cross-linking agent, however, claims 12 and 13 cite 0 parts by weight glutaric dialdehyde or epichlorohydrin, which indicates the composite does not contain the cross-linking agent.

In response, applicants indicate claims 12 and 13 have been amended to include “parts by weight glutaric dialdehyde” or “parts by weight epichlorohydrin” and depend from claim 10 (pages 5-6). The response has been fully considered, however, the argument is found persuasive because the claim cites 0 part by weight, which indicates the claim does not contain a cross-linking agent as indicated in claims 9 and 10.

7. Claim 23 is indefinite because the claim does not cite the amount of each component contained in the composite, it is not clear what composition the protein composite has.

In response, applicants indicate the specification provides detailed information concerning concentration of ingredient including plant protein, polylactide, compatibilizer, cross-linking agent and plasticizer, and the claim read in light of the specification. The response has been fully considered, however, the argument is found persuasive because the claim does not

recite the limitation in the claim, it is not clear what concentration of each component is in the protein composite.

Conclusion

8. Claims 12, 13 and 23 are rejected. It appears that claims 1-11, 14-18 and 20-22 are free of art and allowable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (703) 308-9437. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, Ph. D. can be reached on (703) 308-2923. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-4227 for After Final communications.

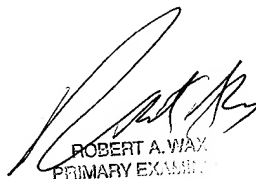
Art Unit: 1653

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Chih-Min Kam, Ph. D.
Patent Examiner

CMK

December 30, 2003



ROBERT A. WAX
PRIMARY EXAMINER